

LEWIS
AND
ROCA
LLP
LAWYERS

E-Filed on 11/17/08

3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169-5996
Facsimile (702) 949-8321
Telephone (702) 949-8320

Susan M. Freeman AZ State Bar No. 004199
Email: sfreeman@lrlaw.com
Rob Charles NV State Bar No. 006593
Email: rcharles@lrlaw.com
John C. Hinderaker AZ State Bar No. 18024
Email: jhinderaker@lrlaw.com

Attorneys for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:
USA Commercial Mortgage Company,
USA Capital Realty Advisors, LLC,¹
USA Capital Diversified Trust Deed Fund,
LLC,
USA Capital First Trust Deed Fund, LLC,²
USA Securities, LLC,³
Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**STATUS AND AGENDA FOR
NOVEMBER 18, 2008 HEARINGS**

Hearing Date: November 18, 2008
Hearing Time: 9:30 a.m.
10:30 a.m.

Affects:

- ☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☒ USA Capital Diversified Trust Deed
Fund, LLC
☐ USA Capital First Trust Deed Fund,
LLC
☐ USA Securities, LLC

Agenda for 9:30 a.m.

2. **Motion to Approve Compromise under Rule 9019 re JMK Investment, Ltd.:** 06-10725-lbr, USA Commercial Mortgage Company, Chapter: 11.

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 26, 2007.

Motion Filed: Motion to Approve Compromise under Rule 9019 Filed by
10/16/08 STEPHEN T. LODEN on behalf of USACM LIQUIDATING
TRUST [DE 6571]

Opposition Filed: Opposition Filed by EDWARD J. GRYL [DE 6604]
11/03/08

Response Filed: Response with Certificate of Service Filed by CURTIS F CLARK
11/05/08 [DE 6605]

Status The opposition and Responses docketed are not related to this
Motion and relate to DE 6575, the motion to approve compromise
with Piercy, Bowler, Taylor & Kern PC. This motion is
unopposed. Counsel will proceed and request approval of the
compromise.

3. **Motion to Approve Compromise under Rule 9019, BEADLE,
MCBRIDE, EVANS & REEVES, LLP, ET AL with Certificate of Service:** 06-10725-
lbr, USA Commercial Mortgage Company, Chapter: 11

Motion Filed: *Application to Compromise and Settle Controversies with*
10/20/08 *BEADLE, MCBRIDE, EVANS & REEVES, LLP ET AL with*
Certificate of Service Filed by ERIC D. MADDEN on behalf of
USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,
USACM LIQUIDATING TRUST [DE 6573]

Errata Filed: Errata Filed by ERIC D. MADDEN on behalf of USA CAPITAL
10/21/08 DIVERSIFIED TRUST DEED FUND, LLC, USACM
LIQUIDATING TRUST [DE 6577]

Supplemental Supplemental Errata Filed by ERIC D. MADDEN on behalf of
Errata Filed: USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,
10/21/08 USACM LIQUIDATING TRUST [DE 6578]

Opposition Filed: Opposition *TO THE APPLICATION OF THE USACM*
11/06/08 *LIQUIDATING TRUST TO COMPROMISE AND SETTLE*
CONTROVERSIES WITH BEADLE, MCBRIDE, EVANS &
REEVES, LLP; MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEROF Filed by TIMOTHY
O'REILLY on behalf of MICHAEL PETERSEN [DE 6607]

11/06/08 Opposition to the Application of the USACM Liquidating Trust to Compromise and Settle Controversies with Beadle, McBride, Evans & Reeves, LLP.; Memorandum of Points and Authorities in Support thereof Filed by TIMOTHY R. O'REILLY on behalf of MICHAEL PETERSEN [DE 6610]

Declaration of Timothy O'Reilly in Support of Opposition to the Application of the USACM Liquidating Trust to Compromise and Settle Controversies with: Piercy, Bowler, Taylor & Kern, PC: and Beadle, McBride, Evans & Reeves, LLP Filed by TIMOTHY R. O'REILLY [DE 6611]

Reply Filed: 11/11/08 Omnibus Response to *Objections to Applications to Compromise and Settle Controversies with PIERCY, BOWLER, TAYLOR & KERN, PC and BEADLE, MCBRIDE, EVANS & REEVES, LLP et al.* Filed by ERIC D. MADDEN on behalf of USACM LIQUIDATING TRUST [DE 6616]

Status Counsel will proceed and request approval of the compromise.

4. **Motion to Approve Compromise under Rule 9019, PIERCY, BOWLER, TAYLOR & KERN, PC:** 06-10725-lbr, USA Commercial Mortgage Company, Chapter: 11

Motion Filed: 10/20/08 Application to Compromise and Settle Controversies with PIERCY, BOWLER, TAYLOR & KERN, PC with Certificate of Service Filed by ERIC D. MADDEN on behalf of USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC, USACM LIQUIDATING TRUST [DE 6575]

Errata Filed: 10/21/08 Errata Filed by ERIC D. MADDEN on behalf of USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC, USACM LIQUIDATING TRUST [DE 6579]

Opposition Filed: 11/06/08 Opposition TO THE APPLICATION OF THE USACM LIQUIDATING TRUST TO COMPROMISE AND SETTLE CONTROVERSIES WITH PIERCY, BOWLER, TAYLOR & KERN, PC; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF Filed by TIMOTHY R. O'REILLY on behalf of MICHAEL PETERSEN [DE 6606]

Opposition Filed: 11/06/08 *Opposition to the Application of the USACM Liquidating Trust to Compromise and Settle Controversies with Piercy, Bowler, Taylor & Kern, PC; Memorandum of Points and Authorities in Support thereof* Filed by TIMOTHY R. O'REILLY on behalf of MICHAEL PETERSEN [DE 6609]

Stipulation Filed: 11/07/08 Stipulation By DELOITTE & TOUCHE LLP and Between USACM Liquidating Trust and USA Capital Diversified Trust Deed Fund, LLC *Regarding Opposition to Applications to Compromise and Settle Controversies with Piercy, Bowler, Taylor & Kern, PC and Beadle, McBride, Evans & Reeves, LLP et al.* Filed by ROSA SOLIS-RAINEY on behalf of DELOITTE & TOUCHE LLP [DE 6612]

Reply Filed: 11/11/08 Omnibus Response to *Objections to Applications to Compromise and Settle Controversies with PIERCY, BOWLER, TAYLOR & KERN, PC and BEADLE, MCBRIDE, EVANS & REEVES, LLP et al.* Filed by ERIC D. MADDEN on behalf of USACM LIQUIDATING TRUST [DE 6616]

Status Counsel will proceed and request approval of the compromise.

5. ***Nunc Pro Tunc Motion to Further Extend Deadline to File Objection to Allowance of Claims:*** 06-10725-lbr, USA Commercial Mortgage Company, Chapter: 11

Motion filed 10/23/2008 *Nunc Pro Tunc* Motion to Further Extend Deadline to file Objection to Allowance of Claims with Certificate of Service filed by JOHN HINDERAKER on behalf of USACM Liquidating Trustee [DE 6582]

Status No objections filed. Counsel will request entry of the Nunc Pro Tunc Order.

9. **Hearing on USACM Liquidating Trust's Motion for Leave to File First Amended Complaint:** Adv. 08-01123-lbr, USACM Liquidating Trust v. Fiesta Development, Inc. et al, [DE 26]

Motion Filed: 10/27/08 Motion for Leave to File First Amended Complaint Filed by the USACM Liquidating Trust [DE 24]

Response Filed Opposition with Certificate of Service (*Opposition to Plaintiff's Motion for Leave to File First Amended Complaint with Certificate of Service*) Filed by OGONNA M. ATAMOH on behalf of RICHARD K ASHBY, ASHBY USA, LLC, FIESTA DEVELOPMENT, INC., RANDOM DEVELOPMENTS, LLC [DE 25]

11/10/08

Reply Filed Reply with Certificate of Service *Reply in Support of Plaintiff's Motion for Leave to File First Amended Complaint* Filed by STEPHEN T LODEN on behalf of USACM LIQUIDATING TRUST (Related document(s)[24] Motion to File Amended Complaint, filed by Plaintiff USACM LIQUIDATING TRUST) (LODEN, STEPHEN) [DE 27]

11/12/08

Status Parties are ready to proceed

Agenda for 10:30 a.m.

1. **Status Conference:** Adv. 08-01058-lbr, USACM Liquidating Trust v. Los Valles Land & Golf, LLC et al

Amended Complaint Filed: Amended Complaint of *USACM Liquidating Trust against Los Valles Land & Golf, LLC and Dan S. Palmer, Jr.* Filed by ROB CHARLES on behalf of USACM LIQUIDATING TRUST against Dan S. Palmer Jr., LOS VALLES LAND & GOLF, LLC [DE 6]

3/13/08

Status Continued from 7/24/2008; USACM Trust deposed Dan Palmer on October 14, 2008 and is preparing a motion for summary judgment to be filed with the Court.

2. **Scheduling Conference:** Adv. 08-01114-lbr, USACM Liquidating Trust v. Shober Consulting, Inc.

Complaint Filed: Complaint *To Avoid And Recover Pre-Petition Transfers* Filed by USACM LIQUIDATING TRUST vs. SHOBER CONSULTING, INC. [DE 1]

4/11/08

Answer Filed Answer to Complaint *With Certificate Of Service* (Filed by WILLIAM H. HEATON on behalf of SHOBER CONSULTING, INC. [DE 14]

8/8/08

1 **Status** Continued from 8/26/2008. Discovery plan filed. Settlement
2 discussions are in process.

3
4 3. **Scheduling Conference:** Adv. 08-01116-lbr, USACM Liquidating Trust v.
Greenwald, Pauly, Foster & Miller

5 **Complaint Filed:** Complaint *To Avoid And Recover Pre-Petition Transfers* Filed by
6 4/11/08 USACM LIQUIDATING TRUST vs. GREENWALD, PAULY,
7 FOSTER & MILLER [DE 1]

8 **Status** Continued from 8/26/2008. Settlement agreed upon. Counsel are
9 finalizing the settlement agreement.

10 4. **Scheduling Conference:** Adv. 08-01120-lbr, USACM Liquidating Trust v.
Gentile Palma Ltd., et al

11 **Amended** Amended Complaint *to Avoid and Recover Pre-Petition Transfers*
12 **Complaint Filed:** Pursuant to 11 U.S.C. Sections 547, 548 and 550 Filed by
13 8/05/08 MARVIN C. RUTH on behalf of USACM LIQUIDATING
TRUST against DOMINIC P. GENTILE, LTD. [DE 6]

14 **Status** Continued from 8/26/2008. Defendant has not answered
15 complaint. USACM Trust will proceed with default.

16 5. **Scheduling Conference:** Adv. 08-01118-lbr, USACM Liquidating Trust v.
17 Cadeski

18 **Complaint Filed:** Complaint *To Avoid And Recover Pre-Petition Transfers* Filed by
19 4/11/08 USACM LIQUIDATING TRUST vs. JERRY CADESKI, JERRY
20 CADESKI [DE 1]

21 **Summons Service** Summons Service Executed on JERRY CADESKI 4/15/2008
22 **Filed:** Filed by ROB CHARLES on behalf of USACM LIQUIDATING
4/15/08 TRUST [DE 6]

23 **Errata Filed:** Errata *to Complaint* Filed by ANNE M. LORADITCH on behalf
4/28/08 of USACM LIQUIDATING TRUST [DE 7]

24 **Status** USACM Trust has been unable to obtain valid service on
25 Defendant.
26

6. **Scheduling Conference:** Adv. 08-01126-lbr, USACM Liquidating Trust v. James Cioffi Architect Corporation, **Complaint** Filed by USACM LIQUIDATING TRUST vs. JAMES CIOFFI ARCHITECT CORPORATION [DE 1]

Complaint Filed Complaint Filed by USACM LIQUIDATING TRUST VS. JAMES CIOFFI ARCHITECH CORPORATION [DE 1]
4/11/08

Status Continued from 8/26/2008. Parties have reached a settlement of the Trust's claims. All settlement payments have been made and the Trust will seek to dismiss the claims in this adversary proceeding.

7. **Scheduling Conference:** Adv. 08-01130-lbr, USACM Liquidating Trust v. Phillips USA LLC, **Complaint** Filed by USACM LIQUIDATING TRUST vs. PHILLIPS USA LLC [DE 1]

Complaint Filed Complaint Filed by USACM LIQUIDATING TRUST v. PHILLIPS USA LLC [DE 1]
4/11/08

Request for Entry Of Default Filed Request for Entry of Default filed by ERIN E. JONES on behalf of USACM LIQUIDATING TRUST against PHILLIPS USA, LLC [DE 8]
8/20/08

Motion for Default Judgment Filed Motion for Default Judgment Against: PHILLIPS USA, LLC, Filed by STEPHEN T. LODEN on behalf of USACM LIQUIDATING TRUST [DE 15]
11/30/08

Status Continued from 8/26/2008. Motion for Default Judgment filed and awaiting entry by Court.

8. **Scheduling Conference:** Adv. 08-01212-lbr, USACM Liquidating Trust v. Donald Granatstein et al, [DE 4]

Status The parties have entered into a settlement agreement.

1 9. **Scheduling Conference:** Adv. 08-01164-lbr, USACM Liquidating Trust et
2 al v. Beadle McBride Evans & Reeves, LLP et al, [DE 18]

3 **Complaint Filed:** *Original Complaint, Claim Objections, and Counterclaims* Filed
4 5/16/08 by USACM LIQUIDATING TRUST, USA CAPITAL
5 DIVERSIFIED TRUST DEED FUND, LLC vs. BEADLE
6 MCBRIDE EVANS & REEVES, LLP, REEVES, EVANS,
7 MCBRIDE & ZHANG, LLP, TG MCBRIDE CPA LTD., T.
8 GARTH MCBRIDE [DE 1]

7 **Status** Continued from 9/24/2008. The motion to compromise is
8 scheduled for hearing.

9 10. **Motion to Dismiss Case:** Adv. 08-01121-lbr, USACM Liquidating Trust v.
10 Fertitta Enterprises, Inc., Filed by MATTHEW C. ZIRZOW on behalf of FERTITTA
11 ENTERPRISES, INC. [DE 17]

11 **Motion filed** Motion to Dismiss Case filed by Matthew C. Zirzow on Behalf of
12 9/24/08 Fertitta Enterprises [DE 17]

13 **Response Filed** Response Filed by MICHAEL YODER on behalf of USACM
14 10/23/08 LIQUIDATING TRUST [DE 30]

15 **Reply filed** Reply Filed by MATTHEW C. ZIRZOW on behalf of
16 11/10/08 FERTITTA ENTERPRISES, INC. [DE 32]

17 **Motion Filed** Unopposed Motion for Leave For The USACM LIQUIDATING
18 11/13/08 TRUST To File Limited Sur-Reply, With Certificate of Service
19 [DE 34]

19 **Status:** Continued from 8/26/2008. Motion to Dismiss has been fully
20 briefed. Parties are ready to proceed.

21 11. **Scheduling Conference:** Adv. 08-01121-lbr, USACM Liquidating Trust v.
22 Fertitta Enterprises, Inc., **Re: Amended Complaint** Filed By Michael Yoder On Behalf
23 Of USACM Liquidating Trust Against Fertitta Enterprises, Inc. [DE 23]

23 **Amended** First Amended Complaint Filed by USACM LIQUIDATING
24 **Complaint Filed:** TRUST vs. FERTITTA ENTERPRISES, INC. [DE 15]
25 8/29/08

26 **Status** Continued from 9/30/2008. The Motion to dismiss this complaint
 is scheduled for hearing.

LEWIS
AND
ROCA
LLP
LAWYERS

PROOF OF SERVICE

COPY of the aforementioned sent via e-mail or U.S. First Class Mail on November 17, 2008 to the parties listed on Post-Effective Official Service List for Limited Notice No. 4 Dated January 8, 2008.

/s/ Carrie Lawrence

Carrie Lawrence

Lewis and Roca LLP